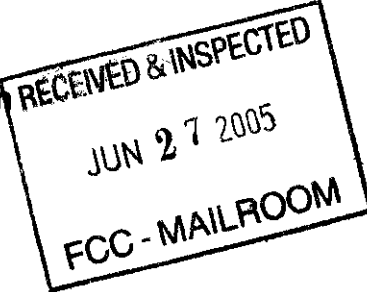


Before the
Federal Communications Commission
Washington DC 20554



Attn : Secretary FCC
MM Docket 99-25

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Comments

The Federal Communications Commission has requested comments seeking to streamline FM Table Of Allotment Rulemaking and AM Community Of License Procedures. This action is an allocation issue closely tied to LPFM and Translator allocation and use issues and should be combined for a joint resolution.

The action : " initiates substantial review and potential reforms of these procedures. The proposals are intended to streamline these procedures, facilitate the expeditious licensing of proposals that advance the fair, equitable, and efficient distribution of radio services, and reduce current backlogs."

In streamlining the FM Rulemaking process and the protection of LPFM and or Translator stations the Commission should apply the same Rules to educational stations, commercial stations, translators, and LPFM stations equally and equitably.

Each licensee has had the expense of a frequency search, the expense of engineering, the expense of construction, and other costs. It costs no less to apply for an LPFM or a translator station than it does to apply for a Class A FM station. There is no plausible argument to oppose this fact.

Each Licensee is faced with an open window (or has been faced with same) and competing applications. Translators and LPFM stations are equally disadvantaged as Commission Rules have discouraged upgrading to a protected status and these stations have been denied the ability to gain protected status through the Rulemaking Proceeding though no Law prohibits same.

Allowing protected status for translators and LPFM stations who meet criteria which would be comparable to "Television Class A Status" and would be in the public interest for the reasons stated herein.

Discussion

Translators now have the ability to air 1 minute of local programming per hour. Modification of translators to allow more local programming would satisfy the need for localism and local service.

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Currently FM stations operated by Calvary Chapel and a slew of "independent" but connected entities operate their full service stations as translators of the Calvary Chapel Network. A recent new full service FM station in Indiana simply repeats the Calvary Chapel satellite with no local service.

Grant LPFM stations primary status over FM translators?

Licensees for both services have faced competing applicants already. Allow translator operators or LPFM operators who have a Construction Permit or authorization to upgrade to "**Class A Status**" "within a 90 day window." If the Licensee fails to upgrade during this window then afford them no protection.

Grant new LPFM or translator stations primary status over existing translators or LPFM stations who wish not to upgrade during the "90 day window."

Settlement Window

Allow competing translator applicants the ability to make major changes to Community of License, geographical coordinates, and other changes which would be a major change to allow settlement of MXed applications only if the translators or LPFM stations modify their Licenses to become stations that qualify for "**Class A Status**".

Should the construction period be extended?

As with the Rules for full service stations no extensions of CP's should be allowed unless zoning issues exist.

Should LPFM license be transferable?

A host of LPFM stations are currently operated as translators and or have ghost applicants who fronted for a national organizations. An LPFM in New Castle Indiana at 107.5 has no local programming even but rebroadcasts a national service. This isn't what the LPFM service was intended to do. Yet, it is taking place.

WVRG FM in Crawfordsville is operated by a Calvary Chapel "affiliate" who plans to transfer their new full power License to another Calvary Chapel affiliate who is setting up translators for Calvary Chapel in the Indianapolis area. The LPFM rebroadcasts Calvary Chapel Satellite programs.

A University in Southern Indiana has already *transferred their LPFM License* to another entity who is operating under an LMA until the Commission approves transfers.

As with any License the true party in interest should be operating the station. Allow transfers but prevent consideration in the transfer to quash "speculators."

Should ownership be limited to local entities?

If the Commission believes local ownership is a factor then look at the front applications such as the New Castle Indiana station that rebroadcasts a national service and has never

had any local programming, and never intends to have any local programming.

Require a percentage of local programming good for all licensees and allow any group to use the stations as long as the percentage is met. Again, a "**Class A Status**" for LPFM stations.

Should the commission prohibit multiple ownership of LPFM stations?

In specific situations such as state wide networks (with local community percentages met with Class A status) multiple ownership would be in the Public interest.

WFIU Bloomington Indiana has a state wide network of translators which serve The Public. Allowing such models to set the standard any educational entity could provide a similar state wide network.

The Streamlining NPRM seeks **Comment on Circumstances Under Which Sole Local Service Could Become a First Local Service Elsewhere** – Asks whether this policy should be relaxed and, if so, what standards should be applied in allowing such station relocation. As these issues are so closely related to the LPFM and translator issues these matters are introduced within this proceeding.

The nature of the moves in recent years has been to leave small towns without radio service in favor of small towns within large urbanized areas. The nature of the moves requires a "tuck showing" to show the small towns near Chicago and other large cities "exist" but fails to examine the cost of the move when a small town is left without a radio station. "The Public" is left out of such moves because "The Public" is not notified by the local radio station the move will take place and Commission Rules are set to favor lawyers and large corporations with cash to fight a sustained battle.

In opposition to the Communications Act as amended and the ideals of "The Public and Broadcasting" the Public rarely views local "Public Inspection Files" and there is lacksadaisical Commission interest when "The Public" is unable to view the "Public Inspection File." The system has been reworked to favor broadcasters and lawyers and not "The Public."

Recent renewals of stations in Indiana are indicative of the Commission's failure to listen to "The Public." As local service is discussed this example is relevant. Many stations received renewals that ; 1) failed to operate minimum hours; 2) were cited as having their Public Inspection Files unavailable; 3) misrepresentation; 4) failure of a Licensee in the act of submitting or signing, or reviewing their License renewal applications; 5) non certification of Anti Drug Abuse forms required by Congress; and 6) The renewals were ruled improper by the Indiana State Boord Of Accounts who oversees each entity.

Stations WBDG Indianapolis, WHJE Carmel, WRFT Indianapolis, WPSR Evansville, and others renewed their Licenses without the involvement of the Licensees of the stations. The Indiana State Board Of Accounts Chief Examiner indicated the renewals violated State law as they were not presented to the governing boards and the people

signing the renewals were not allowed by Law to do so.

Commission Staff has not addressed the clear statements from the Board Of Accountns and fails to indicate in any discussion what reason they found to renew the Licenses.

Because a member of "The Public" commented and asked to share time with the stations not operating minimum hours the stations have evidenced a threat to sue a member of "The Public" because a member of "The Public" made comments in each renewal. WRFT Indianapolis has sent an extortion letter demanding cash to pay a DC lawyer who represented them when a contract engineer filed, reviewed and submitted their License application with his name and his position as technical consultant.

Clearly the groups were able to walk around the Rules and any comment from "The Public" because the system has been backwards engineered from the early days of radio and the intent of the Communications Act. It isn't about "The Public" at all, it is about how someone with enough money can bypass "Rules" and obtain the desired outcome. The Indiana License renewals are clear indications of this.

If the Commission expects "The Public" to take it seriously it needs to take "The Public" seriously. If "The Public" no longer has a place in proceedings just tell them their input is unimportant. Remove the Public Inspection File requirements. Remove The Public and Broadcasting requirements. A throwback to a different time is no longer relevant in today's industry and is of no importance in the decision making process.

If there is a place for these items and "The Public" is to be considered, "The Public Interest, Convenience, and Neccessity should be considered.

Many Rulemaking Petitions are clearly indicative of what the industry is doing to change the face of radio. Clear Channel changed City Of License of an expanded band AM service from a small Illinois town to a town next to Chicago. RM 11113 and RM 11114 have proposed removing the only FM service from Connersville, Indiana to Norwood Ohio next to Cincinatti.

In opposition to these moves, a move by Shirk Incorporated (now Radio One Inc) moved Lebanon Indiana's sole service to Speedway, Indiana. Prior to the move the station worked with locals to find a non commercial frequency and place it on air in Lebanon Indiana.

Most stations in the past who desired to leave their city relocate to another city which is near their City Of License. Today, Licensees need to move more than the 44 miles a Class C City Of License 70dbu signal would allow. Moves out of geographic regions and States are becoming increasingly common.

The Commission should:

Make allowances for cities that loose service in the following means:

- 1) **Establish *Class A Status* for FM translators or LPFM stations** that would make the Rules between TV and FM identical. Allow the FM translators to provide local service.
- 2) **Allow FM translators to upgrade to Class A, B, or C facilities on a first come first served basis** so that in the months or years it might take to place a new FM in Connersville, Indiana or another city which loses its only FM service. As each Licensee goes through the same procedure to obtain the "privilege" of being on the air, allowing lower class or unprotected stations to upgrade when a local broadcaster leaves a city without service seems fair and equitable.
- 3) **Require broadcasters leaving a city with no service to make an attempt to find replacement service.** Require that each conduct a channel search, contact translator operators, and be required to work with (not against new service) in their city to alleviate the negative impact on the current city of license.

Hensley LPFM and Translator Proposal

- 1) **Establish *Class A Status* for translators and LPFM stations.** *Licensees for both services have faced competing applicants already.* Allow translator operators who have a Construction Permit or authorization to upgrade to ***Class A status*** "within a 90 day window." If the translator applicant or LPFM applicant fails to upgrade during this window then afford them no protection. Grant future stations primary status over existing stations who elect not to begin "***Class A Status***" operations during the "90 day window."
- 2) **Establish *Class A Status*. Allow a 90 day window in which existing Licensees can file and elect to qualify.** Establish symmetry with television translator stations which already use the term LPTV to describe their service. Television translators can originate programming. FM translators cannot. *Why?* Use the existing protocol for television translators which has worked well. Why re-invent the wheel?
- 3) **Universal Settlement Window** Allow competing translator and LPFM applicants the ability to make major changes to Community of License, geographical coordinates, and other changes which would be a major change to allow settlement of Mxed applications only if the translators or LPFM stations elect to qualify for "***Class A status***".
- 4) **Universal Rule Streamlining Changes.** As with the Rules for full service stations no extensions of CP's should be allowed unless zoning issues exist. As with any License the true party in interest should be operating the station. Allow transfers but prevent consideration in the transfer to quash "speculators." Require a percentage of local programming good for all licensees and allow any group to use the stations as long as the percentage is met. Again, a "***Class A Status***" for LPFM stations and translators. In specific situations such as state wide networks (with local community percentages met with ***Class A status***) multiple ownership would be in the Public interest.
- 5) **Universal Protection for all allocations including LPFM and translator stations with *Class A Status*.** *The Commission should apply the same Rules to all stations.*

Provide protection for LPFM and translator stations.

a) **Establish Class A Status for LPFM and FM translators** that would make the Rules between TV and FM identical. Allow the FM translators to provide local service as TV translators can now.

b) **Allow FM translators to upgrade to Class A, B, or C facilities on a first come first served basis** so that in the months or years it might take to place a new FM in Connersville, Indiana (RM 11113 and RM 11114) or another city which loses its only FM service. As each Licensee goes through the same procedure to obtain the "privilege" of being on the air, allowing lower class or unprotected stations to upgrade when a local broadcaster leaves a city without service seems fair and equitable.

4) In the Proceeding the Commission should establish a 90 day settlement window for existing MXed groups of applicants which have been shelved for years with no apparent grant in sight.

The Commission should allow waiver of specific Rules to allow settlements including : 1) Allow changes in City Of License and not require contour overlap of settled applications versus filed applications; 2) Allow contour protection to bring settlements about where new frequencies are required; Require 60dbu City coverage for MXed applications; and 3) Allow these changes within the 90 day window which has been advanced as a part of this Proceeding. This specific change would allow resolution of many current MXed situations.

5) The Commission should exclude Non Commercial applicants from fees and provide priority for Non Commercial Applicants who apply for first come first served allocations.

The Commission should not place more value on auction money in opposition to new service by Non Commercial Applicants. *The proposal would advance that each Non Commercial entity operate any station for a 3 year period to reduce trafficking of Licenses.*

Respectfully submitted this 17th day of June 2005


Martin L. Hensley Pro Se
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Declaration

I am Martin Hensley. I have submitted Comments on behalf of The Public. I affirm under penalty of perjury that the statements herein to be true and correct.

